

Before the

**SUBCOMMITTEE ON PREVENTION OF NUCLEAR AND BIOLOGICAL
ATTACK
OF THE
COMMITTEE ON HOMELAND SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES**

Statement of

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On behalf of

AGRICULTURAL RETAILERS ASSOCIATION

On

“H.R. 3197, the Secure Handling of Ammonium Nitrate Act of 2005”

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Chairman Linder, Ranking Member Langevin and other members of the Subcommittee, thank you for inviting me to testify today on behalf of the Agricultural Retailers Association (ARA) regarding the “Securing Handling of Ammonium Nitrate Act of 2005” (H.R. 3197). My name is Tip O’Neill. I am the President of International Raw Materials, headquartered in Philadelphia, Pennsylvania. Our company is an importer and wholesale distributor of fertilizer products. I am here today on behalf of the ARA, which represents the interests of agricultural retailers and distributors in Washington, D.C. I currently serve on the ARA Board of Directors and the association’s Public Policy Committee. ARA represents a significant majority of our nation’s retail dealers who provide essential crop input materials to America’s farmers, including ammonium nitrate fertilizer. In this capacity ARA is vitally interested in any federal laws or regulations affecting the sale and use of key agricultural fertilizer products such as ammonium nitrate.

We appreciate the leadership shown by U.S. Representatives Curt Weldon (R-PA) and Bennie Thompson (D-MS) by sponsoring this important legislation. In this testimony, I will provide an overview of ARA, our industry, the use of ammonium nitrate as a fertilizer, how the illegal use of this product has impacted me personally, and in this context the strong need for enactment of the legislation we are discussing here today.

OVERVIEW OF ARA AND AG RETAILERS

From the perspective of an overview, in 2002, there were an estimated 10,586 agricultural retail outlets in the United States.¹ The overall number of retail outlets is lower today and has been declining due to a number of factors taking place within the industry including: consolidation, increased domestic and global competition, higher operating costs, and low profit margins. ARA members range in size from family or farmer cooperative owned businesses, to large companies with many outlets located in multiple states. Many of these facilities are located in small, rural communities.

As we all know, plants need nutrients to grow, primarily nitrogen, phosphate and potash, each in some available form; hence the need for fertilizers in crop production agriculture. Soils do not retain nitrogen from year to year, therefore, nitrogen fertilizer must be added during each planting season to ensure optimum growth and yield conditions. Demand for fertilizers tends to be seasonal, depending on when crops are planted. Variations in the crop, weather, temperature and soil help determine the amount and types of fertilizers utilized. It is estimated that farmers in crop production ultimately use more than 85 percent of fertilizer consumed in the United States. The remaining fertilizer is used on golf courses, landscaping, nurseries or home use.

Ammonium nitrate fertilizer is primarily used on pasturelands and specialty crops produced in the United States. The principal advantage of using this product as a fertilizer is that crops can immediately utilize part of its nitrogen content in the form of nitrate. Ammonium nitrate was first synthesized by Johann Glauber in 1659, when he combined ammonium carbonate and nitric acid, but it has really been only within the last 60 years that ammonium nitrate has been significantly used worldwide as a important plant nutrient. Its use as an explosive was not discovered until the end of World War I, and reaffirmed with the tragic ship explosions in Texas City in 1947. As we all well know today, both domestic and foreign terrorists have illegally used ammonium nitrate fertilizer in bombings such as those which took place on April 19 1995 at the Alfred P. Murrah

¹ Doane’s *Ag Professional Magazine*, Summer 2003, p.40-41

Federal Building in Oklahoma City, Oklahoma and on October 12, 2002 in Bali, Indonesia. As a personal aside I should mention that my cousin's son Joe Milligan was one of the seven Americans killed in the Bali tragedy.

INDUSTRY WORKING TO ADDRESS SECURITY ISSUES

In response to this potential threat, Ag retailers and distributors have and continue to be pro-active in addressing security concerns related to the storage, handling and transportation of agricultural fertilizers. It is important for Congress and the Administration to know that our nation's agricultural industry is committed to support effective measures that will prevent terrorists or other criminals from gaining access to ammonium nitrate fertilizer or other crop production materials. In fact, DHS has and continues to work with the private sector to identify risks, build systems to communicate those risks, and to prepare plans to keep those risks from becoming terrorist's targets. Our industry has taken a very proactive role in dealing with DHS and has participated in the development of the sector working groups.

ARA is a supporter of Asmark's Security Vulnerability Assessment (SVA) program. The Asmark SVA tool is licensed to ARA and is currently being utilized by member and non-member companies. ARA is working with CropLife America (CLA) and The Fertilizer Institute (TFI) under the "Agri-Business Security Working Group" and state associations to promote security measures and the SVA program. To date this SVA has been utilized by nearly 2,500 retailers. ARA and Asmark earlier this year reached agreement with Clemson University to make the SVA tool available to all Ag retail facilities in the state of South Carolina. This web-based software enables retail facilities to conduct a security vulnerability assessment of their facilities and receive recommendations to improve overall security.

ARA and its members are committed to providing increased security for solid ammonium nitrate fertilizer. Several states such as New York, California, Oklahoma, Nevada and South Carolina have enacted registration and record keeping laws for this product with the support of the state agribusiness association. It is our understanding that these state ammonium nitrate fertilizer registration programs have worked very well and not placed too great a burden on retailers or their farmer customers. While as you might expect it is not easy for us as an industry to support additional regulations, in this case we believe it is necessary to help maintain Ammonium Nitrate's continued availability for use on agricultural operations heavily dependent on this plant nutrient product.

ARA is therefore supportive of efforts by Congressmen Curt Weldon (R-PA) and Bennie Thompson (D-MS) to put in place fair and equitable federal regulations that address any security concerns related to the production, storage, sale and distribution of solid ammonium nitrate fertilizer. H.R. 3197 authorizes DHS to enter into cooperative agreements with state departments of agriculture or other state agencies that regulate plant nutrients to ensure that any person who produces, stores, sells or distributes solid ammonium nitrate fertilizer registers their facility and maintains records of sale or distribution including the name, address, telephone and registration numbers of purchasers. Also, purchasers would be required to register under this proposal. ARA is working closely with the TFI and sponsors of the Senate and House bills to ensure that the interests of agricultural retailers are represented and has a voice at the table with Congress

and the Administration as this legislation moves forward in the House and Senate and any subsequent regulations that are implemented.

ARA supports a common sense, fair and simplified federal registration system for ammonium nitrate fertilizer in order to ensure the product's continued availability for sale, purchase and use by America's agricultural industry. ARA believes it is important for retailers to maintain the ability to sell ammonium nitrate fertilizer if they so desire to their long standing and known farmer customers, as well as ensuring their customers maintain the ability to purchase the product for use on their farming operations. Over the past year many domestic manufacturers and distributors have publicly announced they will no longer be producing or selling ammonium nitrate due to security and liability concerns. There are now only two domestic manufacturers making this fertilizer product, with at least some of this shortfall, being replaced by imports. We believe that enactment of H.R. 3197 will help provide increased vigilance in the handling, sale and use of this product and provide some assurances for the industry against any potential liabilities that would otherwise exist without a federal registration system in place.

We would also request support for the establishment of a security tax credit that would allow eligible agricultural businesses to use their own financial resources to take the necessary steps installing state of the art security measures that better protects ammonium nitrate and other crop production materials and the American public from the potential threat of terrorism or other illegal activities. Rep. Ron Lewis (R-KY) introduced the "Agricultural Business Security Tax Credit Act of 2005" (H.R. 713) with the support of ARA, TFI, CLA, Chemical Producers & Distributors Association (CPDA), and the National Agricultural Aviation Association (NAAA). ARA urges committee members to also support this important legislation by co-sponsoring H.R. 713.

CONCLUSION

In conclusion, we would like to reiterate that the Agricultural Retailers Association greatly appreciates this opportunity to testify on this important issue. We respectfully urge this committee to pass H.R. 3197.